

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

---

ST. MATTHEW'S BAPTIST CHURCH,  
Plaintiff,

v.

WACHOVIA BANK NATIONAL  
ASSOCIATION f/d/b/a FIRST UNION  
NATIONAL BANK  
Defendants

---

Civil Action No. 04-4540 (FLW)

**ORDER**

This matter having been opened to the Court by Joseph A. Martin, Counsel for Defendant Wachovia Bank National Association, on a Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6); Douglas E. Burry, Esq., Counsel for Plaintiff St. Matthew's Baptist Church, having filed opposition thereto; the Court having considered the moving, opposition, and reply papers pursuant to Fed. R. Civ. P. 78; for the reasons stated in the Opinion filed on this date; and for good cause shown;

IT IS on this 18<sup>th</sup> day of May, 2005

ORDERED that Defendants' Motion to Dismiss is GRANTED as to Counts I, II, III, IV, V, and VII. Defendant's Motion to Dismiss is GRANTED WITHOUT PREJUDICE as to Count VI. Plaintiff is given leave to amend the Complaint with regard to the calculations of the termination fee only, and not as to the validity of the imposition of a termination fee, within thirty (30) days.

/s/ Freda L. Wolfson

---

The Honorable Freda L. Wolfson  
United States District Judge